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STATEMENT OF THE PRESIDENT OF THE ASSEMBLY ON THE WORK OF THE ASSEMBLY DURING THE SECOND PART OF ITS FIRST SESSION

1. The second part of the first session of the Assembly of the International Seabed Authority was convened at Kingston, Jamaica, from 27 February to 17 March 1995. The first part, which was primarily of a ceremonial nature, had also been held at Kingston from 16 to 18 November 1994 to commemorate the establishment of the International Seabed Authority, which coincided with the entry into force of the United Nations Convention on the Law of the Sea. The third part of the first session is scheduled to be held at Kingston from 7 to 18 August 1995.

Opening of the session

2. Mr. Hans Corell, Under-Secretary-General for Legal Affairs and Legal Counsel of the United Nations, acting as the Temporary President of the Assembly, opened the second part of the first session. During the initial meeting (6th meeting of the plenary), the Assembly decided to commence its work under the draft rules of procedure recommended by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea until such time as it adopted its own rules of procedure. The Assembly also amended the provisional agenda (ISBA/A/1) by changing the order of items 2, 3 and 4, as follows:

2. Election of the President.

3. Adoption of the agenda.

4. Adoption of the rules of procedure.

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Election of the President

3. At the 7th meeting of the plenary, the Assembly elected by acclamation Mr. Hasjim Djalal (Indonesia) as President of its first session and also adopted its agenda (ISBA/A/4).

Election of Vice-Presidents, appointment of a Working Group on the Draft Rules of Procedure and appointment of the Credentials Committee

4. The Assembly elected by acclamation four Vice-Presidents: Algeria, Canada, Mexico and the Russian Federation. It also appointed 10 members of the Working Group on the Draft Rules of Procedure: Egypt (Chairman), Brazil, Germany, Indonesia, Jamaica, Poland, Republic of Korea, Russian Federation, Senegal and United Kingdom of Great Britain and Northern Ireland. It further appointed a 9-member Credentials Committee, consisting of Austria (Chairman), Cameroon, China, Costa Rica, Japan, Nigeria, Poland, United States of America and Uruguay.

Working Group on the Draft Rules of Procedure

5. The Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea had recommended to the Assembly for its consideration draft rules of procedure (LOS/PCN/WP.20/Rev.3). In addition, and in the light of the adoption by the United Nations General Assembly on 28 July 1994 of the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea (General Assembly resolution 48/263), the Secretariat prepared document ISBA/A/WP.1 containing suggestions for revising the draft rules of procedure of the Assembly issued by the Preparatory Commission taking into account the provisions of the Agreement. At the request of the Assembly, the Secretariat then prepared a working paper by merging the two documents, and the new document (ISBA/A/WP.2) was then considered by the Working Group. Following discussions, the Working Group submitted to the Assembly an updated version of the draft rules of procedure (ISBA/A/WP.3). The Assembly subsequently discussed the document at the 14th and 15th plenary meetings, and adopted the draft rules of procedure, together with a draft rsolution (ISBA/A/L.2).

The Credentials Committee

6. The Credentials Committee held one meeting, on 14 March 1995, at which it had before it a memorandum prepared by the Secretariat dated 14 March 1995 on the status of credentials of representatives participating in the second part of the first session of the Assembly of the International Seabed Authority. Having examined the credentials of the representatives, the Committee recommended in its report (ISBA/A/5) a draft resolution accepting the credentials of the representatives concerned. At the 14th plenary meeting, on 16 March 1995, the Assembly approved the report of the Credentials Committee (ISBA/A/5).

Election of the members of the Council

7. The Assembly decided, in accordance with section 3, paragraph 10, of the Annex to the Agreement, that countries fulfilling the criteria for membership in each group of States referred to in section 3, paragraph 15 (a) to (d), of the Annex to the Agreement would nominate their candidates for election to the Council of the Authority and would also determine how the principle of rotation would apply in case the number of potential candidates in any of the groups exceeded the number of seats available in that group. The Assembly also decided that regional groups would nominate their candidates for the Council according to the principle of ensuring an equitable geographical distribution of seats in the Council as a whole, pursuant to section 3, paragraph 15 (e), of the Annex to the Agreement, bearing in mind the candidates to be nominated under paragraph 15 (a) to (d).

8. In view of the complexity of determining the criteria for membership in the various groups of States in the Council, as specified in section 3, paragraph 15, of the Annex to the Agreement, and in order to facilitate the determination of States falling under various groups, the Secretariat, at the request of a number of delegations, had circulated an informal working paper, dated 9 November 1994, entitled "Indicative list of States which would fulfil the criteria for membership in the various groups of States in the Council of the International Seabed Authority in accordance with paragraph 15 of section 3 of the Annex to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982". During the inter-sessional period and thereafter, the Secretariat received from delegations suggestions for corrections with regard to the contents of the informal paper. On the basis of such inputs, the Secretariat prepared an updated version of the informal paper, and circulated it on 27 February 1995. In view of difficulties in ascertaining appropriate statistical and other data, it is understood that the updated version should be regarded as a guide only, not as establishing absolute or definitive criteria, and shall not prejudice the rights of delegations to submit or use other data.

9. The Assembly decided that for the purpose of nominating their candidates and determining how the principle of rotation would apply, States which considered themselves as fulfilling the criteria for membership in each group of States referred to in section 3, paragraph 15 (a) to (d), of the Annex to the Agreement should meet among themselves.

10. Accordingly, the various groups of States met. The meetings of the group of States referred to in paragraph 15 (a), "States Parties which, during the last five years for which statistics are available, have either consumed more than 2 per cent in value terms of total world consumption or have had net imports of more than 2 per cent in value terms of total world imports of the commodities produced from the categories of minerals to be derived from the Area", known as Group A, were attended by Belgium, Brazil, China, France, Germany, Italy, Japan, the Republic of Korea, the Russian Federation, the United Kingdom and the United States (Coordinator). The Group met to discuss the nomination of four States meeting the criteria contained in that paragraph for election to the Council.

11. The Group decided not to recommend a list of States meeting the criteria of paragraph 15 (a). Members of the Group held different views on the interpretation of the criteria. Some expressed the view that the criteria required that a consuming or importing State must meet the 2 per cent threshold for the value of each of the four minerals (manganese, copper, cobalt and nickel). Others expressed the view that the criteria required that States meet the threshold for the combined value of all four minerals. Without prejudice to the resolution of this question in regard to future elections, the Group decided to take a flexible and inclusive approach to its deliberations.

12. The Group took note of the fact that the United States, the United Kingdom, the Russian Federation, Japan, Germany, Belgium and Italy informed the President of the Assembly of their interest in being nominated for election to the Council. Belgium, Italy and Germany decided to withdraw their requests to be nominated by the Group on the understanding that, without prejudice to the interests of other States meeting the criteria in paragraph 15 (a), the application of the principle of rotation in future elections would provide opportunities for their election to the Council as representatives of the Group.

13. The United States indicated its readiness to be elected to a two-year term, while Japan and the United Kingdom wished to be elected to a four-year term. The Russian Federation expressed its desire to be elected to a four-year term, but indicated its readiness to consider being elected to a two-year term on certain conditions, namely:

(a) That in its decision the Assembly will affirm, at the time of election, that paragraph 15 (a) requires the inclusion of one State from the Eastern European region having the largest economy in that region in terms of gross domestic product and of the State, on the date of entry into force of the Convention, having the largest economy in terms of gross domestic product, should those States seek re-election to the Council under that paragraph;

(b) That the principle of rotation would apply to Japan and the United Kingdom after four years;

(c) That the desire of the Russian Federation to be elected to a four-year term was the only obstacle to the election of the Council by the Assembly.

14. After the initial meetings of the group of States referred to in paragraph 15 (b), "States Parties which have made the largest investments in preparation for and in the conduct of activities in the Area, either directly or through their nationals", known as Group B, the coordinator of the Group, Canada, informed the President that after considering information provided by delegations with respect to investments by their States in preparation for and in the conduct of activities in the Area, the delegations unanimously agreed that the following States constituted the eight largest investors for the purposes of paragraph 15 (b): China, France, Germany (Coordinator), India, Japan, Netherlands, Russian Federation and United States.

15. The Group of the eight largest investors proceeded to discuss the nomination of the four candidates to represent the Group in the Council. Five States - China, France, Germany, India and the Netherlands - declared their

intention to represent the Group in the Council. In consultations between the interested States as well as between them and the coordinator, it was not possible to reach agreement on which four States should be nominated. It was also not possible to decide which of the candidates would be nominated to serve on the Council for a two-year term or for a four-year term. Also unresolved was the question of the application of the principle of rotation.

16. The meetings of the group of States referred to in paragraph 15 (c), "States Parties which, on the basis of production in areas under their jurisdiction, are major net exporters of the categories of minerals to be derived from the Area", known as Group C, were attended by Australia (Coordinator), Brazil, Canada, Chile, China, Cuba, France, Gabon, India, Indonesia, Mauritania, Mexico, Namibia, the Philippines, Poland, the Russian Federation, South Africa, the United States and Zambia.

17. Six countries from this Group - Australia, Chile, Gabon, Indonesia, Poland and Zambia - presented their candidatures for the four seats available in this Group. Although some delegations have indicated a willingness to be flexible at the current stage - particularly in the light of the fact that other issues still need to be resolved - there has been no final agreement on the four candidates.

18. It was also agreed that the principle of rotation should apply to future elections of candidates for the Group, and that this should be interpreted as meaning that there is a general expectation that members of this Group will move on and off the Council. This would not preclude the possibility of individual countries making informal arrangements between themselves, such as reciprocal support arrangements. Nor would it preclude countries having consecutive terms on the Council, if this was agreed by the Group.

19. It was further agreed that at the current stage it was not appropriate to make a definitive list of countries eligible for election to the Group. However, some delegations suggested that this was something which should be considered in the future. Reference was made to an informal understanding reached at the Third United Nations Conference on the Law of the Sea that the Group should reflect an equal balance between developing and developed countries. Other delegations stated that they were not aware of that understanding. The issue of which candidates would be nominated for a two-year term and which would be nominated for a four-year term was not discussed.

20. The meetings of the group of States referred to in paragraph 15 (d), "developing States Parties, representing special interests. The special interests to be represented shall include those of States with large populations, States which are land-locked or geographically disadvantaged, island States, States which are major importers of the categories of minerals to be derived from the Area, States which are potential producers of such minerals and least developed States", known as Group D, were attended by Argentina, Bangladesh, Brazil, Burkina Faso, Cameroon, China, Costa Rica, Cuba, Egypt, Fiji, Gabon, India, Indonesia (Coordinator), Jamaica, Kuwait, Malaysia, Malta, Marshall Islands, Mauritania, Mexico, Mozambique, Myanmar, Nigeria, Oman, Paraguay, Philippines, Republic of Korea, Sudan, Trinidad and Tobago, United Arab Emirates, Viet Nam and Zambia. Twelve States - Argentina, Bangladesh,

Brazil, Cameroon, Egypt, Jamaica, Kuwait, Nigeria, Oman, Paraguay, Philippines and Sudan - declared their intention to seek nomination to the Council within this Group, and other States also expressed their interest in being nominated in either Group D or Group E, which would consist of 18 members elected according to the principle of ensuring an equitable geographical distribution of seats in the Council as a whole. In view of the discussions taking place in other groups, no definitive list of candidates for this Group has been drawn up.

21. The President conducted intensive consultations with the Chairmen of the regional groups to ascertain their views as to what constitutes "an equitable geographical distribution of seats in the Council as a whole". He requested the respective Chairmen to seek the views of the members of their regional groups. All regional groups considered this issue, and varying opinions and points of view were expressed. Reference was made to the distribution of seats in various other international organizations, and examples were offered of how seats in such organizations were distributed among the regional groups.

22. The President, after several lengthy discussions, proposed a formula for allocating the seats in the Council in respect of each regional group. His proposal took into account the concept of proportionality and the need to maintain a balance in the representation in the Council.

23. The President also made the following suggestions:

(a) The distribution of seats among the geographical regions for this election of the members of the Council shall be without prejudice to the distribution of seats among the geographical regions for the next election of the members of the Council, which will have to take into account the new membership of the Authority at that time;

(b) Representation in the present Council by a member of a particular group of States referred to in section 3, paragraph 15 (a) to (d), of the Annex to the Agreement, shall, whether or not the principle of rotation is applied in that Group, be without prejudice to its representing other groups of States in the future; at the same time, the representation by members in the present Council of the various groups of States does not preclude the rights of other States to represent these groups in the future;

(c) The general balance of seats established in the present Council between developing and developed countries shall be maintained in the future.

24. The President's proposal regarding the allocation of seats in the Council was discussed extensively in meetings of regional groups. No unanimous decision emerged from the discussions of the proposal, and it was not yet possible to reach consensus on this issue. It is expected that the matter will be further discussed and, it is to be hoped, resolved during the third part of the first session of the International Seabed Authority, to be held at Kingston from 7 to 18 August 1995.